

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

RICKY TYRONE CROWDER,

DEFENDANT/PETITIONER,

CASE No. 01-80098

V.

UNITED STATES OF AMERICA,

HONORABLE ARTHUR J. TARNOW
UNITED STATES DISTRICT JUDGE

PLAINTIFF/RESPONDENT.

_____ /

ORDER DENYING MOTION TO REDUCE SENTENCE [26]

Before the Court is defendant-petitioner Crowder's motion for reduction of sentence.

The government is correct that 18 U.S.C. § 3582(c) is not a vehicle that Crowder can use to reduce his sentence. Amendment 599 was not put into effect subsequent to Crowder's sentencing. Rather, Amendment 599 had been incorporated into the sentencing guidelines prior to dates Crowder committed the offenses.

Furthermore, the government is also correct that the weapons enhancement was applied properly. Count I concerned a robbery of a Comerica bank branch on December 29, 2000. Count II dealt with a January 31, 2001 robbery of a First Federal of Michigan bank branch. Count III charged defendant with using a firearm during the underlying offense named in count II. Therefore, the pre-sentence report properly applied a weapons enhancement to Count I, but not to Count II.

Application Note 4 to Sentencing Guideline §2K2.4 could not be clearer: "if a defendant is convicted of two armed bank robberies, but is convicted under 18 U.S.C. § 924(c) in connection with only one of the robberies, a weapon enhancement would apply to the bank robbery which was not the basis for the 18 U.S.C. § 924(c) conviction." In Crowder's case, he was convicted for use of a firearm during a crime of violence, 18 U.S.C. § 924(c) in connection with the robbery of count II. The weapons enhancement still applies to the robbery described by

count I.

Accordingly, the motion is DENIED.

SO ORDERED.

S/ARTHUR J. TARNOW
Arthur J. Tarnow
United States District Judge

Dated: February 7, 2008

I hereby certify that a copy of the foregoing document was served upon counsel of record on February 7, 2008, by electronic and/or ordinary mail.

S/THERESA E. TAYLOR
Case Manager